

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2004 SEP 24 P 1:33
U.S. DISTRICT COURT
DISTRICT OF MASS.

BRIAN N. DRAKE,

Petitioner,

v.

UBS FINANCIAL SERVICES INC.,

Respondent.

The Honorable Robert E. Keeton

Case No. 04-11426 REK

STIPULATION AND REQUEST FOR ORDER

Petitioner Brian N. Drake ("Drake") and Respondent UBS Financial Services Inc. ("UBS"), for their Stipulation and Request for Order, reached after conferring pursuant to L.R. 7.1, hereby request a final extension of time for Drake to file an amended Complaint and Application (Motion) to Vacate. In support of this Stipulation and Request, the parties state as follows:

1. The parties having filed a number of stipulations, and the Court having ordered a number of extensions for Drake to file an amended pleading, most recently extending the deadline to September 24, 2004; and

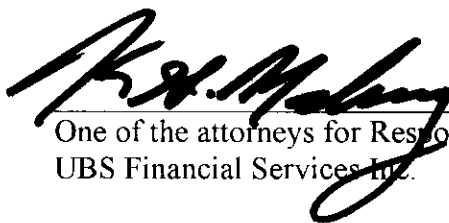
2. Drake having received the transcript of the last remaining audiocassette of the underlying arbitration proceeding on or about September 15, 2004;

3. The parties agree and represent as follows: (1) Drake may have a final extension to file an Amended Complaint and Application (Motion) to Vacate on or before October 8, 2004, while reserving all rights as to the sufficiency of the Complaint and Application (Motion) to Vacate; (2) Drake represents that he shall not seek any additional extension of time for the aforementioned filing for any reason and UBS relies upon such representation in agreeing to this extension; and (3) UBS is excused from answering or otherwise pleading in response to the

Complaint and Application (Motion) to Vacate, while reserving all rights, defenses, affirmative defenses and counter-claims thereto.

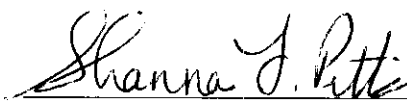
WHEREFORE, Petitioner Brian N. Drake and Respondent UBS Financial Services Inc. respectfully request that the Court enter an Order accepting this Stipulation and ordering and finding that (1) Drake may file an Amended Complaint and Application (Motion) to Vacate on or before October 8, 2004, while reserving all rights as to the sufficiency of the Complaint and Application (Motion) to Vacate; (2) Drake represents that he shall not seek any additional extension of time for the aforementioned filing for any reason and UBS relies upon such representation in agreeing to this extension; and (3) UBS is excused from answering or otherwise pleading in response to the Complaint and Application (Motion) to Vacate, while reserving all rights, defenses, affirmative defenses and counter-claims thereto.

Respectfully submitted:



One of the attorneys for Respondent
UBS Financial Services Inc.

Kevin G. Mahoney
Menard, Murphy & Walsh LLP
60 State Street
34th Floor
Boston, MA 02109
Tel.: (617) 832-2500
Fax: (617) 832-2550



One of the attorneys for Petitioner
Brian N. Drake

William A. Jacobson
Law Offices of William A. Jacobson
850 Turks Head Building
Providence, RI 02903
Tel.: (401) 490-7500
Fax: (401) 490-5680

OF COUNSEL:
William M. Ejzak
Schuyler, Roche & Zwirner, P.C.
Suite 3800, One Prudential Plaza
130 East Randolph Street
Chicago, Illinois 60601
Tel: (312) 565-2400
Fax: (312) 565-8300

Certificate Of Service

The undersigned hereby certifies that on September 22, 2004, he caused a copy of the foregoing Stipulation and Request for Order to be served upon:

William A. Jacobson
Shanna L. Pitts
Law Offices of William A. Jacobson, Inc.
850 Turks Head Building
Providence, Rhode Island 02903

by overnight mail.



405657